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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,709	10/23/2001	Yuji Saiki	04558.057001	2960
38834	7590	04/06/2005	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			SEFER, AHMED N	
			ART UNIT	PAPER NUMBER
			2826	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,709

Applicant(s)

SAIKI ET AL.

Examiner

A. Sefer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/13/2005 has been entered.

Response to Arguments

2. Applicant's arguments with respect to the claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 11, 13-15, 18-20, 22, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue et al. ("Shibue") US PG-Pub 2004/0180149 in view of Yoshimi (of record).

Shibue discloses in fig. 1 a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate (as in claims 13 and 15) comprising a polarizer, wherein first portion 21/23 and the second portion 22/24 are laminated by an adhesive 110/120 (as in

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claims 2, 14 and 18) but lacks anticipation of a first portion having a polarization degree of 99% at each wavelength of light for certain wavelengths and a second portion having a polarization degree of 99% or more at wavelength of light for different wavelengths.

Yoshimi discloses (see figs. 1-7 and computer translated document) a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate 4 comprising a polarizer, the polarizer comprising: a first portion having a polarization degree of 99% at wavelength of light for wavelengths within the range recited in the claim and a second portion having a polarization degree of 99% or more at wavelength of light for wavelengths within the range recited in the claim.

Although the combined references do not specifically disclose a polarization degree at each wavelength, since Shibue and Yoshima are both from the same field of endeavor, liquid crystal display, Yoshima's teachings would have been found pertinent in Shibue's art. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to take measurements at intervals such as every 10nm as disclosed by Yoshima, since that would provide a more accurate result. It would have been obvious to meet the limitations set by claims 19 and 20, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

As for claims 4 and 5, Yoshimi discloses (see computer translated document) a polyvinyl alcohol-based adhesive or urethane-based adhesive (as in claim 5).

Regarding claims 6 and 15 Yoshimi discloses pressure-sensitive adhesive.

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As for claim 11, Yoshimi discloses a viewing angle compensating film 1 attached to a polarizing plate.

Regarding claims 3 and 7, the specification contains no disclosure of either the critical nature of the claimed arrangement or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

As for claims 22, 24 and 26, Shibue discloses a polarizing plate 31 located on one side of a liquid crystal cell 4.

5. Claims 8-10, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue in view Yoshimi as applied to claim 1 above, and in further view of Ozeki et al. ("Ozeki") USPN 6,498,633 (of record).

The combined references disclose the device structure as recited in the claim, but do not specifically disclose an absorption axis.

Ozeki discloses (see col. 4, lines 52-58) a polarizing plate comprising a polarizer, the polarizer comprising two portions of a polarizer laminated so that the absorption axis are disposed in parallel to each other.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate of Ozeki's teachings since that would provide a desired wavelength dependence as taught by Ozeki.

As for claims 9 and 10, Ozeki discloses (see col. 7, lines 54-57) a reflector/ transreflector or a retardation plate 4 (as in claim 10) attached to the polarizing plate.

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As for claims 28 and 29, Ozeki discloses (see col. Col. 7, lines 58-62 and col. 8, lines 1-8) at least one other optical layer 4 or at least two other optical layers.

6. Claims 12, 16 and 21, 23, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue in view Yoshimi as applied to claims 1, 24 and 26 above, and in further view of Kameyama et al. ("Kameyama") USPN 6,088,079 (of record).

The combined references disclose the device structure as recited in the claim, but do not specifically disclose a brightness enhancement film attached to polarizing plate.

Kameyama discloses (see abstract) a brightness enhancement film (cholesteric liquid crystal layer) attached to polarizing plate.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Kameyama's teachings since that would improve display brightness as taught by Kameyama.

Regarding claim 16, Kameyama discloses (see col. 15, lines 1-25) a separator. As for its function, a recitation of an intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

As for claims 21, 23, 25 and 27 Kameyama discloses (see col. 11, lines 6-13) a polarizing plate transmitting a linearly polarized light having a predetermined polarization axis.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue in view Yoshimi as applied to claim 1 above, and in further view of Tanaka ("Tanaka") JP 8-271934.

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The combined references disclose the device structure as recited in the claim, but lack anticipation of first and second portion of the polarizing plate being directly laminated.

Tanaka discloses in fig. 3 a liquid crystal display comprising including a polarizer comprising a first portion 32 and a second portion 32 on at least one side of a liquid crystal cell 31, wherein the first portion and a second portion are being directly laminated.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Tanaka's teachings since that produce a high definition display as taught by Tanaka.

8. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue in view Yoshimi as applied to claim 1 above, and in further view of Koike et al. ("Koike") USPN 6,654,085.

The combined references disclose the device structure as recited in the claim, but do not specifically disclose an adhesive layer exposed on a surface of the optical member.

Koike discloses in figs. 2-4 a polarizing plate comprising a polarizer 51 and adhesive layer 4/52 on an exposed surface of surface of an optical member 3/6.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Koike's teachings since that would attain a clear display as taught by Koike.

As for claim 31, an adhesive temporarily being covered would exist in the final production therefore, reads to a process and "product by process" claims are directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685 and In re Thorpe, 227 USPQ 964, 966. Therefore, the way the

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product was made does not carry any patentable weight as long as the claims are directed to a device. Further, note that the applicant has the burden of proof in such cases, as the above case law makes clear. Also see MPEP 2113.

9. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibue in view Yoshimi as applied to claim 1 above, and in further in view of Ochi et al. ("Ochi") USPN 6,094,245.

The combined references disclose the device structure as recited in the claim, but do not specifically disclose a transparent protective film.

Ochi discloses (see fig. 2 and the paragraph bridging cols. 6 and 7) a polarizing plate comprising a polarizer 31 and a transparent protective film.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Ochi's teachings since that would prolong the life service of the polarizer as taught by Ochi.

As for claim 33, Ochi discloses no protective layer between first and second portions of the polarizer.

Regarding claim 34, Shibue discloses first portion and a second portion being directly laminated by an adhesive, while Ochi discloses transparent protective layer 32/33 being provided on one side or both sides of the polarizer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (571) 272-1921.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

ANS
April 3, 2005

A handwritten signature in black ink, appearing to be 'Nathan J. Flynn', is written over the printed name and title of the examiner.